

Court Considers Many Factors in Determining Spousal Support

Q: What factors does the court consider in setting the amount of support a spouse should receive after a divorce is finalized?

A: In determining whether spousal support is appropriate and reasonable, and in determining the amount, terms of payment, and duration of spousal support, the court, by law, must consider a number of factors. These include the income and relative earning abilities of the parties; the ages and physical, mental, and emotional conditions of the parties; the retirement benefits of the parties; the length of the marriage; the standard of living which was established during the marriage; the extent to which it would be inappropriate for the custodian of a child to seek work outside the home; the educational background of the parties; the property and debts of the parties, including any court-ordered payments; the contribution of each party to the education, training, or earning ability of the other; the time and expense necessary for the person seeking spousal support to acquire education, training, or job experience; the lost income production capacity of either party resulting from that party's marriage responsibilities; and the tax consequences for each party of an award of spousal support. The court may also consider any other factor that it finds to be relevant and fair. The law does not require the court to consider who is at fault, or who filed the divorce.

Q: How can a spouse obtain financial support and protection from harassment while divorce/dissolution proceedings are still going on?

A: A court may award either party temporary spousal support and allocate the responsibility to pay debts before a divorce becomes final. While a divorce action is pending, a court may also issue restraining orders prohibiting harassment by a party. Since a dissolution of marriage proceeding can only be initiated upon the full agreement of both parties, matters involving support and the conduct of each party before the final court hearing would need to be worked out by the parties.

A court must issue a temporary protective order the same day as requested if a spouse has committed acts of domestic violence, whether or not a divorce is filed.

Q: What can be done if spousal support payments are not made?

A: Anyone failing to comply with court-ordered spousal support payments may be subject to being brought before the court at a contempt-of-court proceeding and asked to present evidence concerning the allegations of nonpayment. If found in contempt of court, a person ordered to pay spousal support must pay court costs, reasonable attorney fees, and may be sentenced to a jail term.

Q: Can spousal support continue after one or both parties remarry?

A: Generally, spousal support will end upon the death or the remarriage of the person receiving the support. It is possible under certain circumstances, however, that the obligation to pay spousal support may continue beyond either of these events. Spousal support is sometimes guaranteed by life insurance should the payor die before support is terminated. It is also possible for a court to retain the ability to modify a spousal support award upon a showing of a substantial change in the

circumstances of either or both parties. It is very important that an attorney familiar with Domestic Relations Law be consulted concerning these matters in drafting the divorce orders.

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This "Law You Can Use" consumer legal information column was provided by the Ohio State Bar Association. It was prepared by Columbus attorney Robert A. Koblentz, Esq.

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